



REPORT

ON

ILLEGAL FISHING AND CANNING
OF LOBSTERS

AND ILLEGAL FISHING OF SMELTS

IN LOBSTER FISHING DISTRICTS
Nos. 7 AND 8

TO

HON. J. E. MICHAUD, M.P.,
MINISTER OF FISHERIES

BY

HON. ARTHUR T. LeBLANC,
COMMISSIONER

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

COMMISSIONER'S REPORT ON THE INQUIRY OF ILLEGAL LOBSTER FISHING AND CANNING AND ILLEGAL SMELT FISHING IN LOBSTER FISHING DISTRICTS NOS. 7 AND 8 DURING THE YEAR 1936.

Out of Lobster Fishing District No. 7, which extends from Delaney's Cove in Inverness County, Cape Breton, including all the Gulf area and the south side of the St. Lawrence river, has been carved a small district known as Lobster Fishing District No. 8. It is a narrow area in the Northumberland Strait contained within the coasts of New Brunswick and Prince Edward Island and two imaginary lines: one on the North extending from Chockpish river, in Kent County, New Brunswick to Carey Point in Prince Edward Island; and the other on the South extending from river Philip, Nova Scotia, to Victoria Harbor, Prince Edward Island.

During the years 1935 and 1936 and for many years previously the lobster fishing season in District No. 7 was from May 1 to June 30. In District No. 8 it was from August 15 to October 15. The Spring of 1937, however, brought some changes. The northern boundary of District No. 8 was moved up northwardly and now extends from Eel River in Northumberland County, New Brunswick, to North Point in Prince Edward Island. The lobster fishing season therein was changed, being now from August 10 to October 10.

District No. 8 and that part of District No. 7 lying in New Brunswick and Nova Scotia are contained in a Fisheries Division, which includes the Maritime Provinces and the Magdalen Islands. The Division is under a Chief Supervisor who resides at Halifax, Nova Scotia. The Division is divided in seven sub-districts, three in Nova Scotia, three in New Brunswick and one in Prince Edward Island. Each district is under a Supervisor of Fisheries and is divided in sub-districts. The sub-district is under an Inspector, who reports to the Supervisor and has under him fishery guardians. Under the Supervisor of each district come the patrols. They are boats chartered by the Department of Fisheries and manned by a captain, an engineer, and a deckhand. In addition to the chartered patrols the Department has boats of its own. The *Gilbert*, which had been used in the Bay Chaleur region during the salmon fishing season, was used in the lobster fishing season along with the two Department-owned fisheries protection cruisers the *Arleux* and the *Arras*. The last two named are about 135 feet over all, 25 feet beam, 350 gross tons and draw approximately 15 feet of water. Their principal work is the protection of the lobster fisheries when in the gulf waters; but they are used for such other work as may be needed at any time. When called upon the Royal Canadian Mounted Police located in the district lend their aid to the protection of fisheries.

The above is a brief description of the organization to whose care and alertness was confided and entrusted the duty of protecting the lobsters and smelts in Lobster Fishing Districts Nos. 7 and 8 during the lobster and smelt fishing seasons of 1936. It must be borne in mind that the lobster fishing districts bear no relation to the general division of the provinces. Lobster Fishing District No. 7, for instance, covers part of New Brunswick, Nova Scotia, Prince Edward Island and Quebec.

Whilst the Commissioner is not limited in his investigation to any special area contained within districts Nos. 7 and 8 nor to any special form which his report should take, yet for practical purpose, it seems preferable to answer seriatim the four specific matters set out in the Commission, numbered consecutively one, two, three, four somewhat in the nature of a questionnaire.

At the different sessions held in six places in New Brunswick and four places in Prince Edward Island, the investigation brought before the Commissioner persons from all classes connected with lobster and smelt fishing. The 385 witnesses examined under oath included 188 fishermen, 83 dealers and dealers' employees, 50 fishery officers, 36 lobster packers and 28 others.

It will be convenient to deal first with Lobster Fishing District No. 7, paying particular attention to that part of the district comprised between Point au Quart (Point Carr) and the Chockpish line. That section is divided into two sub-districts under two Inspectors, Mr. M. W. Williston, Bay du Vin, and Mr. Russell G. Long, Richibucto, respectively, and that part of Prince Edward Island not included in Lobster Fishing District No. 8.

One of the first witnesses called was the vice-president and manager of a company that operates eight canning factories; some at Tignish, Prince Edward Island, others at Point Sapin, Kouchibouguac, Richibucto Cape, Chockpish, and Grand Digue, New Brunswick. He swore that at least two-thirds of the lobsters canned by his company at Chockpish since 1931 have been illegally canned.

At Chockpish the company has five lobster buyers. From the evidence given by 40 witnesses, among whom were buyers and fishermen, I have no doubt about the accuracy of the statement made by the manager. One fisherman admitted that he had caught illegally ten thousand pounds of lobsters without losing a trap. He was fishing at about two and one half miles North of the Chockpish line in District No. 7, during the close season there and delivered his lobsters at Chockpish in the daytime.

The Chockpish line is so intimately connected with the violation of the fishery laws that it will be helpful to explain how it could take such a leading part and win such an undesirable reputation in the annals of poaching.

The evidence leaves the exact position of the line in a somewhat nebulous conjecture or at least very uncertain. The river Chockpish itself is in Mr. Long's sub-district. The document appointing Mr. Collette inspector in the next sub-district, which is in Lobster Fishing District No. 8 called the late season district, specifically leaves it out of his territory. Some twenty years ago permission was granted to a big company to operate a cannery near the Chockpish line and North of it during both lobster seasons. The factory is so close to the line that it leaves it in doubt as to whether it is in District No. 7 or in District No. 8. In fact there is evidence to prove that it is built right on the line. On account of the special privilege enjoyed by that company to can during both seasons in the same factory, that company will be called hereafter the bi-season company.

By arrangement Inspector Collette, outside of whose district the factory lies, relieves Inspector Long of all inspection duties with regard to that factory. Inspector Collette, whose sub-district is in Lobster Fishing District No. 8, inspects the factory every two weeks, in the daytime. The inspection consists in seeing that the sanitary and other regulations are observed in the canning operation and that no berried lobsters are used. Chockpish river being outside of his sub-district, he has no jurisdiction about the illegal fishing. As Inspector Long has left to his next neighbour officer, Mr. Collette, the only duties which, presumably, could require his presence at Chockpish, the situation creates a sort of "no man's land" at a highly strategical point in so far as the protection of lobster fishing is concerned. It results in something like a neutral zone being left immediately north of the Chockpish line. That section being one of the best lobster fishing grounds on the New Brunswick coast, it could hardly be expected that the lobster fishermen would fail to avail themselves of such a windfall. They rose to the occasion.

When the quantity of lobsters packed at Chockpish in 1936 by the company whose manager candidly stated that at least two-thirds of the lobsters canned in his factory had been illegally caught, amounts to 684 cases, it would have materially shortened the Inquiry had the Commissioner been able to obtain

from the bi-season canning company evidence of that nature. But neither the officers of the bi-season company nor its manager, nor its employees, including even the men who took delivery of the poached lobsters in bags, at night as well as in the daytime, knew anything about the source of supply, or even suspected that some of those lobsters delivered at the Chockpish factory might have been caught illegally.

However, the fishermen themselves related the part of the story which the company officials, manager or employees were unable to reveal. Some of that company's buyers at Chockpish, the company's truckmen and others also contributed valuable information on the point. Twenty-seven fishermen whose activities were limited to the section around Escuminac placed at 22,500 pounds or about 11 tons the quantity of live lobsters that they had caught illegally and delivered at Escuminac, Spruce Point, Batture and other points in the vicinity of Escuminac, the much larger share going to the bi-season cannery at Chockpish.

About the same number of fishermen coming from sections along the coast such as Point Sapin, Kouchibouguac, St. Louis, Richibucto Cape, etc., added about 44,000 pounds more. One buyer at Chockpish admitted that one-half of the lobsters purchased by him in the late season of 1936 were illegally caught. Having bought altogether 85,000 pounds of which 80 per cent were canned, it gives more than 70,000 pounds that were canned in the factory whose manager placed at about two-thirds the percentage of lobsters illegally canned by his company in 1936. That company had other buyers at that place, but the one above mentioned bought by far the largest quantity.

The evidence reveals also that the illegal canning of lobsters by the fishermen was extensive. It is more difficult to ascertain anything like a near estimate of illegally canned lobsters than it is of the live ones. The only accurate statements in that regard are those obtained from the dealers. But as those statements contain legally canned mixed with illegally canned lobsters the statements are not always very reliable. Very often also the fishermen dispose of their illegally canned lobsters in small lots of one case or one-half case in trade throughout the country, and I should not care to make an estimate of the quantity thus disposed of. However, it has been proven conclusively that 71 cases or about eight tons of poached lobsters have been illegally canned by several fishermen and sold to three different small buyers. 77½ cases were bought by the bi-season company from the man who proved to be its best provider of poached lobsters in 1936. He swore that they were all illegally canned and there is no reason to have any doubt about the truth of that statement.

In the Spring season of 1936 the bi-season factory at Chockpish canned 536 cases, and in the Fall season, 1,084.

When it is recalled that the area contiguous to and south of, the Chockpish line is poor lobster fishing ground, while the area immediately north of it in sub-district No. 7 for several miles is good, the above figures are strong corroborative evidence of the testimony given by the manager who made the two-thirds estimate. I have no doubt that the estimate made by him is a conservative one and that the same percentage, perhaps a higher one, applies to the bi-season factory situated on the line or north of it.

It takes about 225 pounds of green lobsters to make one case of canned lobsters. Take two-thirds of the quantity of lobsters canned at Chockpish by the bi-season company and add 77½ cases it purchased, it shows that at the least 171,892 pounds of illegally caught lobsters were handled by it in the late season of 1936; 155,230 pounds being canned at Chockpish.

If the quantities canned at Chockpish by the other company, 684 cases, is added, it reaches the figures of 253,270 pounds of lobsters or about 126 tons as the amount of illegally caught lobsters canned at one point by two companies. But the lobsters caught in District No. 7 were not all canned at Chockpish. A certain quantity hauled during the night by boat found its way in a canning factory at Cocagne Cape, where two and a half tons were delivered. The large lobsters were brought to St. Thomas and sold at Point du Chene.

On the very ground where an appreciable degree of success was achieved by those engaged in the illegal fishing and canning of lobsters, was mobilized a force of fishery officers, whose duty it was to prevent illegal lobster fishing and canning. It consisted of a Supervisor residing at Newcastle, New Brunswick, two Inspectors, five guardians, six patrol boats, each with a captain and two men on board. The *Arleux* already mentioned, a government boat, also took part in patrolling the district.

The Supervisor and the Inspector are appointed by the Civil Service Commission. All the other men employed, except the crews of the government boats, are chosen by the Department of Fisheries in the usual way. The evidence does not show how the crews of the Government owned boats are chosen.

Boats such as the *Gulf Rover*, 50 feet long and with a speed of 16 miles an hour, the *Gulf Ranger* with a speed of 16 miles an hour, the *Gulf Racer* 50 feet long and with a speed of 14½ miles an hour are chartered at three hundred dollars a month. The *Gulf Rambler* 48 feet long, 13½ miles an hour and with noisy engine was chartered at \$275 a month. The *Brant* owned by Inspector Williston was chartered at \$150 a year. To all those boats the department furnished the crews, gas and all other operating expenses as well as keeping the boats in good running condition. Nothing is paid for the period during which the boats are laid up for repair.

Accompanying the notice of appointment to position in the service is a small book of instructions explaining the duties attached to the different positions.

Proper protection of the fisheries requires of each man in the service a clear understanding of his duties, a desire to discharge them honestly, a judicious choice or selection of method and means to be adopted, followed by a zealous endeavour to put such methods and means to their very best advantage in the mode of execution.

The boats are under the authority of the Inspector in whose sub-district they operate. The crew may be called by him to render assistance on land.

It seems that the patrol crews generally have understood their duty as being limited to work in their boats, on the water and to leave the land operations in the hands of the Inspectors and their guardians. If the destruction of traps and gear is an efficient way of preventing or stopping illegal fishing of lobsters, then the patrol crews have discharged their duties with commendable zeal. In Mr. Long's sub-district in 1936 they destroyed 6,833 traps and seized a very considerable quantity of rope—34,565 fathoms. Of that number of traps Inspector Long destroyed about 2,000 when using his own boat. The boat is 30 feet long, draws 20 inches of water and has a speed of 25 miles an hour. In rough weather it is not very seaworthy. The department allows him \$150 a year for his patrol boat and \$500 for his automobile. All the Inspectors receive allowances somewhat similar. In Inspector Williston's sub-district 990 lobster traps were destroyed and 4,380 fathoms of rope were seized. 9,669 lobsters were freed in Mr. Long's sub-district and 2,178 in Mr. Williston's.

In Mr. Long's sub-district there were seven prosecutions for offences against the fishery laws and six convictions. One case against a man for having lobsters in his possession during the close season was withdrawn at the demand of the Supervisor. The others resulted in six convictions.

Six of the prosecutions were for having illegal possession of lobsters during the close season. A fine of one hundred dollars was imposed and paid for having berried lobsters. That was at the bi-season company's factory at Chockpish river. Three jail sentences were served. A motor truck, a Chevrolet coach and a motor boat were confiscated.

The two motor car seizures were made by members of the Royal Canadian Mounted Police. One of the seizures was made near the Chockpish line. The owner of the car had 700 pounds of illegally caught lobsters purchased in St. Louis and which he was carrying by auto for delivery at Chockpish. His

brother, who was engaged in the same business, purchased at St. Louis more than two tons of illegally caught lobsters and brought them by car to Chockpish, sometimes in broad daylight and through Richibucto parish. He never was molested.

There is no record of any prosecution for violation of the fishery laws in Mr. Williston's sub-district.

Such a resounding success against inanimate traps and gear would seem to place the patrol boat crews and the Inspectors under whom they worked, beyond the reach of criticism in the discharge of their duties. Three patrol boats were in Inspector Long's sub-district during the late season of 1936. The *Gulf Rover* arrived on the 16th of July and was joined on the 31st of the same month by the *Gulf Rambler*. On the 15th of August, the opening date of lobster fishing in the late season in District No. 8, the patrol service was increased by the arrival of the *Gulf Ranger*. The three boats seem to have remained under Inspector Long during the whole late lobster fishing season, except that the *Gulf Ranger* either was temporarily absent or did not obtain as much success as its sister ships in the destruction of gear. Its name does not figure in the reports quite as often as those of the other two. On the 24th of September the Department's patrol *Arleux* came to Mr. Long's sub-district and remained until the 21st of October.

In Mr. Williston's sub-district three patrol boats also were employed. The *Brant* went patrolling on the 8th of August and seems to have been active in the destroying of traps until the 19th of September. The *Gulf Ranger* shows operation on the 22nd of August by destroying 132 traps. The *Gulf Racer* appears on the scene on September 3, destroying 65 traps and repeating its exploit on the 8th of October by destroying 272 traps. That was the last appearance of any patrol activities in that sub-district in 1936 in so far as the report shows.

Let us see what was happening in the face of such an Armada collected within a relatively small area.

A squadron of three motor boats, of which the *Teresa* deserves to be called the flagship, was successful in hauling tons and tons of illegally caught lobsters, unloading them at a distance of 38 or 40 miles from the source of supply, under the very gaze of the patrols. One of the motor boats made only one trip. It stopped, not because of the patrol, but because the other two boats had the monopoly of the lobster buying. The second boat, with a speed of six or eight miles an hour, made six or seven trips to Point Sapin breakwater in September, 1936, and bought there about two and one-half tons of illegally caught lobsters, some of which were brought from Escuminac to the loading point. It delivered them at a canning factory at Cocagne Cape, a distance of some 50 miles. The man in charge of the boat saw a patrol boat once north of Richibucto, but never was molested.

The *Teresa* was a high-power boat 42 feet long, 10 feet wide, 5 tons net, with three engines in it. It draws 3½ feet of water when empty, 4 feet and over when loaded. It had a speed of 25 miles an hour if the engines were working well. It was in the charge of two young men. The owner of the *Teresa* delivered to the bi-season company at its Chockpish factory 116,783 pounds of live lobsters in the late season of 1936. It would not be fair to say that all were illegally caught, because there were men in sub-district No. 8 buying for the company. The *Teresa* was hauling legally caught lobsters from West Point in Prince Edward Island. But from the same place it was also hauling illegally caught lobsters. The buyer swore that he handled there about seven and a half tons, three-fourths of them being large ones that were sent to St. Thomas; consequently, he bought lobsters fished north of the line and gave the names of two sellers. Some of them admitted to the Commissioner that they had fished illegally near Cape Wolfe, Prince Edward Island.

However, it might not be unfair to apply to that quantity, the percentage sworn to in the case of the other company, two-thirds; that would mean 38 tons of illegally caught lobsters. The books-containing entries of the quantity of illegally caught lobsters delivered by the *Teresa* at Chockpish were burnt. The owner of the *Teresa* and his wife claim that it does not amount to 12 tons, but from the evidence of the poachers who sold the lobsters, that of the men who manned the boat and took delivery of them, the quantity would seem to be much in excess of 12 tons. A considerable quantity was delivered by cars. The large ones were sold at Point du Chene.

No well-organized system of spies or signals was used to deceive the fishery officers. The boats just came, loaded and went away. It is true that sometimes a flash from the boat, at the water line, indicated its presence near the landing point and warned the fishermen to hurry their work of bringing the lobsters. Although no unnecessary noise was made, the lobsters were brought to the boat in dories and loaded without any extraordinary precaution. Sometimes they had been already weighed by a buyer who preceded the boat by land in an auto. A few times the patrol boats were heard, but that was the extent of the interference. At times the boat at low tides was 150 feet from the shore when loading.

The *Teresa* commenced its operations on the first day of the open season in district No. 8 and took down its last load of illegally caught lobsters on the last day of the season, the 15th of October. During all the time between those dates it made three or four trips a week and never was caught. It was chased twice by the patrol boats.

The supervisor and the inspectors knew what was going on. As early as August 3 the flying land patrol of two men, organized by the supervisor, made its written daily report "of boats fishing at Richibucto" and of the information that they had received about twenty-five lobster lines set between Richibucto and Chockpish. Again in their reports of the 5th, 6th, 10th, 11th, 12th, 13th, 14th, 15th, 19th, 20th, 22nd, 25th, 27th of August and of the 3rd, 4th, 9th, 12th, 18th of September and on other days, they made their written reports about the illegal fishing of lobsters at Batture, Portage River, Point Sapin, Kouchibouguac, St. Louis. On August 27 the two men on the land patrol went to Richibucto "to tell Mr. Long and the cutter," as the report puts it, "that there was a boat at Point Sapin to buy lobsters."

Two days before, on August 25, the same men had gone to Richibucto on a similar errand, but they found that "they were all gone," Mr. Long and the cutter. In an undated letter sent to the supervisor by the land flying patrol, the two men warn of the bad smuggling places—Point Sapin, St. Louis and Richibucto Cape. They declare themselves powerless and make suggestions about having one or two cutters stationed there all the time.

In reports of August 20, 22, and September 9 the *Teresa* is specifically mentioned, not by her name but by that of its owner. On other occasions they report evidence of illegal canning.

By the middle of the late fishing season the supervisor, the inspectors and the men on the patrol boats should have realized that the destruction of traps did not stop illegal fishing. They spent long hours in the day time to destroy gear and not enough time at night patrolling where they might have succeeded in intercepting poachers.

The service failed dismally for want of concerted action. There was no co-operative effort made by the different officers and employees. Each branch of the service seems to have been left to its own initiative, instead of playing its parts in a well-prepared plan.

When asked if the patrol boats had ever formed a line across the strait in an effort to intercept the *Teresa*, the captain of the *Gulf Rover* answered that they had done that at the request of Supervisor Barry, the last part of September. The

captain of the *Gulf Rambler* says likewise. One stated that they used three boats in the manœuvre, the other said five. I have found in their daily reports no mention of any such attempt. The supervisor was informed again and again of certain points where lobster loading might be expected to take place. Mr. Long was told of poaching. The land flying patrol asked that cutters be sent at certain points to stop the illegal traffic, but the *Teresa* went on unmolested in its hauling of illegally fished and illegally canned lobsters.

The mode of evading the fishery laws varies with the provinces. One must not be surprised at that because the facilities are not the same everywhere and the methods must be adapted to the situation if success is to be obtained.

Let it be said at once that for various reasons the enforcement of the fishery laws in Prince Edward Island is difficult. The form of the northern part of the island, among other reasons, contributes largely to the difficulties. The broken coast line, the presence of small islands, shoals, the narrow necks of land offer ever ready and safe means of escape or good hiding places for the poachers.

The island district is under a supervisor and contains five sub-districts each with an inspector. During the 1936 season seven patrol boats were used to protect the fisheries. The *F.D.B.1* from July 16 to October 31, the *F.D.B.2* from July 22 to November 10, the *Langholm* from June 8 to October 31, the *Vclox* from August 6 to October 20, the *Seaview* from August 13 to October 9, the *Uno* from August 15 to October 24, the *Tracadie* from July 16 to October 15.

The first two named are owned by the department, the others are chartered. The department boats *Gilbert*, *Arras* and *Arleux* went into service around the district. The latter was equipped with a fast motor launch, which captured two motor boats engaged in illegal lobster fishing. The *Arleux* destroyed 1,409 lobster traps.

Sub-district No. 1, generally called the North or West Prince sub-district, consists of the extreme northwestern portion of Prince Edward Island, northwest of a line drawn from Baptiste Point on the western side and extending to the Cascumpeque Bay Narrows, on the north or northeast side. That sub-district is under Mr. Cecil R. Palmer, of Roseville, as Inspector. The part of his sub-district between Carey Point on the north and Baptiste Point on the south is in Lobster Fishing District No. 8, that is, in the late fishing season district. The rest is in Lobster Fishing District No. 7. It has about 200 miles of coast line and river.

In his sub-district Inspector Palmer had the services of the department owned patrol boat *F.D.B.1* with a crew of two, a captain and an engineer, from July 16 to October 31. Two crews were employed on it, the first one making way for the second in the middle of the summer. The *Langholm*, chartered, with a captain and an engineer patrolled from October 8 to October 31, serving during the same period a section of Queens County. The *Seaview*, chartered, was patrolling at times the coast of Prince County. The *Arleux* and the *Gulf Rambler* did some patrolling work. Three fishery guardians completed the force that was arrayed against the lobster poachers in Mr. Palmer's sub-district.

The main result of all the efforts made by those protectors of the lobster fisheries is reflected in the number of gear destroyed. The first destruction is recorded as taking place on the 18th of July when the *Gulf Rambler* confiscated 51 traps, 175 fathoms of rope and freed 60 lobsters. The operations continued until the 7th of November. The *Langholm*, *F.D.B.1* and the *Arleux* taking part. They succeeded in confiscating 6,245 traps, 47,442 fathoms of rope and liberated 1,819 lobsters. In the number of lobster traps destroyed it was an increase of 2,958 traps over the gear broken in 1935. During the same time 47,442 fathoms of rope were confiscated as compared with 24,188 in 1935 and 44,765 in 1934. The number of traps destroyed in 1935 was 3,287 and in 1934—4,920. Between April 1 and December 31, 1936, there were nine prosecutions in the sub-district for infraction of the fishery laws; one for packing lobsters without a licence, four for fishing lobsters in close season and four

for the possession of lobsters in close season. Nine convictions followed, the fines ranging from two to fifty dollars and costs. Two fines of \$25 each, one for \$50 and that of \$2 were paid. Two months were passed in jail by an offender for fishing lobsters in close season.

One boat was confiscated and returned to the owner. The record does not show the sequel to the other four convictions, they being listed "not paid yet."

The activities of the lobster fishermen seem to have obtained a far larger measure of success. The evidence given by some 95 of them at Summerside, Alberton, and Tignish, more particularly at the last two named places, is a straightforward, clear narration of lobster poaching on a large scale in the year 1936. The auxiliary testimony of buyers, merchants, truckmen, officers and others make it unanimous that in the year 1936 the poaching was extensively conducted and successful in the sub-district of Mr. Palmer.

It is a fair estimate to place at 90 per cent the number of fishermen who engaged in illegal lobster fishing, canning or both, after the 30th of June, 1936, in that part of Lobster Fishing District No. 7 contained in Mr. Palmer's sub-district. Whole villages were engaged in it, many of the fishermen fishing and canning in the daytime just as though it were legal. Some factories remained in operation after the 30th of June, old, idle ones were put in operation again and a large amount of lobsters were illegally canned in the woods, on the beach in the fishermen's residences, in their sheds and elsewhere. Some of the catches were carried to the houses and there canned in the daytime. The shells sometimes were buried, but in other cases they were spread on the land as fertilizer. Many of the poachers did their illegal canning in their kitchens, others upstairs or in out houses built against their kitchens. The stove pipe from the stove in the out houses was connected with that of the kitchen stove. The presence of smoke coming from the kitchen chimney did easily deceive the officers. One fisherman found it more convenient to carry on operations in his fox ranch. The venture has proven so successful that it has led him to carry on that way for the last three years.

At South Alberton where home canning was done on a very large scale the patrol boat *Langholm* made very frequent calls. Its crew never made one search despite the fact that the captain had been a poacher, and smoke from chimneys was in evidence.

At a place called Hogan's Cove near North Point eight men living together in a shanty fished illegally during the late season of 1936 and were not caught. The one who testified swore that with 96 traps he had caught six or seven thousand pounds of lobsters and never lost a trap, although the officers gave them a hard chase—but he did not say how. They fished from one to two miles from shore and sold all their lobsters to a packer who operated a factory at Brae Harbor, in Lobster Fishing District No. 8, where the season was open. The packer came for the lobsters in the daytime, at night and carried them away about 30 miles to his cannery. If the witness's catch was a fair average, then 48,000 pounds of lobsters or 24 tons were thus carried away without interference. The packer placed at 15,000 pounds the quantity of lobsters that he obtained at that spot.

Inspector Palmer in his evidence said that the illegal pack in his sub-district in 1936 amounted to no more than 2,000 cases. As he had no suspicion of the extensive poaching going on, he must have based his estimate on the evidence that he heard in court. It is not easy to fix with any degree of assurance the exact amount of illegally canned lobsters in his sub-district. A small percentage only of the fishermen were examined. Some sold their pack to different small buyers, who themselves split out their purchases in selling to the larger buyers. In trying to come to a correct amount, two errors must be eschewed, one of counting a part of the same pack twice and the other, allowing a pack to go unaccounted for. Making a reasonably careful attempt to escape both pitfalls I have traced 3,554 cases of lobsters illegally canned in Mr. Palmer's sub-district in the year 1936. It means about 395 tons and no doubt the quantity was larger.

The question may be asked how such a large quantity of illegally canned lobsters could be transported safely and escape the attention of the officers. The regulations require the Inspectors to take, at the close of each canning season, a correct count of the number of cases packed in each factory within their sub-districts. As the transportation of canned lobsters cannot be made after July 15 without a permit from the Inspector, the check up at the end of the seasons gives the Inspector an accurate way of detecting immediately any attempt made to move illegally canned lobsters.

The packers and dealers found two effective means of evading the regulations, or, to put it more correctly, of escaping the effect of its efficacious provisions. One was for the packers to camouflage a number of empty cases piled behind full ones. The quantity of their season's pack was increased by that much and permitted them to obtain a correspondingly larger number of shipping permits, to which they were not entitled. In cases where poaching exceeded their expectations and left them with illegally canned lobsters on hand after all their permits were gone, the buyers came to the rescue. They returned the permits. The same were used again by the shippers, sometimes with the date changed.

In addition to the poached lobsters accounted for by canning, some illegally caught lobsters were smuggled into Lobster Fishing District No. 8 from Lobster Fishing District No. 7 south of the Victoria line. They were delivered at Borden and Cape Traverse on the island. Some, I think, reached New Brunswick. But the quantity was much less than in previous years. The illegal fishing was done at Canoe Cove and Prim Point. It might have amounted to a ton and a half. Those that went to Borden and Cape Traverse were carried there in cars in the daytime and a few loads at night.

About forty-one cases of lobsters illegally canned in the close season on the north side of the island, some of them apparently on board boats near Fish Island, 570 pounds of live lobsters taken by car, at night from the north side to Mont Carmel in the late season district No. 8, on the 4th of September, 1936, to which may be added about 10,000 pounds more, fished illegally at Hardy's Channel, in the Narrows, at Hog's Island, a portion of which was canned at Goose Harbor, constitute the quantity of illegal fishing and canning in that part of Lobster Fishing District No. 7, under Inspector P. C. Martin. The situation in that sub-district is well in hand. The officers have been alert and the destruction of gear by the patrols indicate no very serious attempt at poaching.

In sub-districts Nos. 3, 4 and 5 of the island conditions as regard the portion of Lobster Fishing District No. 7 therein are satisfactory.

In that part of Lobster Fishing District No. 8 under Inspector Collette the illegal fishing of lobsters in 1936 was at a minimum. Some attempts at illegal fishing were made but quickly checked. One poacher, however, succeeded in catching one ton with thirty traps before the late season opened. He disposed of them in small lots to tourists.

During the year 1936 fifteen prosecutions were brought and fifteen convictions were made for infractions of the lobster fishery laws, nine for illegal fishing, one for resisting arrest, one for illegal possession of lobsters and three for being in possession of berried lobsters in the legal season.

Thirteen fines and costs were paid. A sentence of six months was suspended for illegal possession of lobsters and a jail sentence for resisting arrest was purged.

In Mr. Ulric LeBlanc's sub-district the illegal fishing of lobsters was not considerable. It amounted to about one and one-half ton or at the most two tons. There were five prosecutions for illegal fishing and five convictions. The names of twenty-three offenders appear for the five convictions, with the fines and costs paid in four cases. The offenders seem to have been prosecuted in blocks and some of them, two in number, did not pay their fines.

The serious complaint against Inspector LeBlanc is that a very large portion of the lobsters illegally canned in Lobster Fishing District No. 7 was brought

to his sub-district without any interference, in spite of the fact that he lives within a stone throw of the shed where most of them were stored. The lobsters were illegally fished and illegally canned outside of his sub-district. To what degree, if any, the presence of such lobsters, in large quantities, within his sub-district, may justly influence one's opinion of the inspector's discharge of his duty in that regard, is not within the scope of this inquiry.

In Mr. Martin's portion of Lobster Fishing District No. 8 bordering on his sub-district, the only illegal fishing recorded is that of a fisherman who, in July, 1936, crossed to Point du Chene with 600 pounds, which he sold and delivered to a buyer there. Another small quantity also seems to have been caught. Twenty traps were found in the water by the inspector. It will be recalled that on the 4th of September, 1936, 570 pounds of lobsters illegally caught on the north shore of Mr. Martin's district were carried across to Mont Carmel and there sold.

The foregoing records all that the evidence shows of the presence of illegally caught lobsters in that part of Mr. Martin's sub-district lying in Lobster Fishing District No. 8.

The first matter referred to in the commission dated December 6, 1936, concerning which I am asked to inquire and report is:—

1. "Whether or not there was this year a serious amount of illegal lobster fishing and canning in Lobster Fishing Districts Nos. 7 and 8."

The answer is that in Lobster Fishing District No. 8 there was not a serious amount of illegal lobster fishing in the year 1936.

There was not a serious amount of illegal lobster canning in that district in 1936, if reference is had only to lobsters illegally fished in that district in that year. But one cannot shut his eyes to the fact that lobsters illegally caught in Lobster Fishing District No. 7, in 1936, were brought and canned in one factory near the Chockpish line in Lobster Fishing District No. 8 in sufficient amount to fill 456 cases in the open season. In Prince Edward Island enough lobsters illegally fished on the North shore of the Island, in Lobster Fishing District No. 7, were carried by car to a factory, at Brae Harbor in Lobster Fishing District No. 8 to permit the canning of 125 cases also in the open season. That represents 63 tons of lobsters. To the question implied in the first matter of the Inquiry relating to illegal canning, any answer in a negative way would be robbed completely of all emphasis by that quantity of poached lobsters.

The answer must be that there was a serious amount of illegal canning of lobsters in Lobster Fishing District No. 8 in the year 1936.

In Lobster Fishing District No. 7 there was a serious amount of illegal lobster fishing and canning in the year 1936. It is only fair to state here that it was confined to that section of Lobster Fishing District No. 7 extending from and including Escuminac to the Chockpish line in New Brunswick, and in the sub-district of West Prince in Prince Edward Island.

The second matter of reference reads as follows:

2. "Whether any of the local employees of the Department of Fisheries concerned accepted bribes of any kind to connive at illegal practices."

The answer to that is no. There is not a scintilla of evidence that any of the officers ever accepted bribes of any kind. The loan of \$125 by a lobster dealer to Inspector LeBlanc and the \$500 note now in the hands of a dealer and endorsed by Inspector Palmer, are undesirable transactions, ill-advised. I do not think that they influenced the Inspectors in the discharge of their duties.

The third matter is:

3. "Whether such employees fairly and efficiently discharged their duties, and if there was an unusual amount of illegal lobster fishing this year what were the main causes thereof."

Any answer to the last matter referred to must be prefaced by some history of lobster fishing in the provinces concerned, some short statement of what has been going on for the last forty years or more. Without a glimpse into the past, it might be difficult for anyone who has read the evidence to understand how such an utter disregard for our laws could have been exhibited.

In many sections of the Maritime Provinces, some years ago, infractions of the lobster fishing regulations were the rules rather than the exceptions. Long stretches of our coast line have been cured of the poaching infection, but there are localities where the opportunities for continuing the illegal practices are greater, and the improvement in those places has not been as marked.

To show how deeply imbedded is the practice of lobster poaching in the northern part of Prince Edward Island and in some sections of New Brunswick, it is sufficient to recall that witnesses, who belong to the third generation of poachers, gave evidence before the Commission. Some of them had escaped detection during long years of activity. It was nothing uncommon to hear men sixty years old state that poaching of lobsters had been going on, quite extensively, for as long as they could remember.

In his testimony, the retired Supervisor of Fisheries in Prince Edward Island made the statement that in order to stop poaching in the North part of his province, it would be necessary to call out the militia. Whether or not he was serious in his statement, the answer proves to what degree the evil has reached. I mention it in fairness to the officers, to show the serious difficulties with which they had to cope in the discharge of their duties.

In answer to the third matter mentioned in the Commission, it can be said that, excepting those whose duty it was to prevent canning at the Chockpish line of the lobsters illegally caught in Lobster Fishing District No. 7, the employees fairly discharged their duties, in the sense that they showed no favoritism.

But the answer must be that they did not efficiently discharge their duties.

There was an unusual amount of illegal lobster fishing in 1936 in Lobster Fishing District No. 7, limited to that part of the District extending from, and including Esguminac to the Chockpish line in New Brunswick, and in Sub-district No. 1 in Prince Edward Island. It does not mean that the catch resulting from the illegal lobster fishing was greater than in years past. But there were more poachers at it, and as the price of lobsters was somewhat fair, they seem to have been better organized and to have gone into the venture with more determination and persistence. The main causes for the unusual display of illegal lobster fishing repose on two different bases; one economical and the other educational.

The world was emerging from a very serious period of depression. In the set up of our economic-social system, the prime producers of wealth are the first to be struck by the adverse conditions of trade. Fishermen are among the prime producers of wealth. They go through storms and tempests in quest of an indispensable article of food, in the case of lobster fishermen, an article of food which is a luxury saleable at profitable prices only when times are good.

A fair price for lobsters in 1936 was something new. The announcement of it was like the sound of a gong. Young men who had been idle for years, chafing under conditions that made their youth suffer, welcomed the occasion of earning a few dollars. The only way in which it could be done was by fishing lobsters and fishing lobsters they did, in and out of season. The risks taken by some of them, if no defence to their law breaking, is a palliating circumstance. When one hears a young married man state that he fished his traps in storms, knowing that the patrol boats would not dare go out, and that he did so for the sake of his family; when you are told of the experience of young men snatching a few hours sleep while swinging in an anchored boat in the stream, in order to escape detection, one is forced to conclude that the circumstances

were extraordinary. Several of the poachers had not had the opportunity of earning much money for some years. The temptation to poach lobsters, that they could sell at a fair price, was to them irresistible.

It was stated under oath, and I believe it, that from Campbellton, on the west side of Prince Edward Island to Alberton on the east, sixty per cent of the fishermen were in destitute circumstances. Lobster fishermen may be divided into two classes. Those who fish and do some farming, those who rely exclusively on fishing for a livelihood. The destitution applies to the latter category of fishermen. In years past they obtained a very fair price for their mackerel and codfish. That market is gone. Some fishermen claim that if a bonus were paid to them for cod, hake and mackerel, they could get along without resorting to lobster poaching. It is easy to subscribe to that, except that in the case of the fishermen who do also some farming, the claim loses considerably of its weight.

The term educational as applied to one of the causes of the illegal lobster fishing, must be given two different meanings. It can be used in the sense that fishermen should be made to understand by means other than punishment, that it is in their interest to respect the fishery laws. That a continuance of the illegal practices will result in the destruction of the lobster fishing industry. That they should be made to recognize how dangerous it is for them to kill the goose that lays the golden egg.

The second meaning of the term may be given to paint under its proper colours the situation that has existed for long years, making it a sort of an educational system, in a bad sense, under which the present generation has been tutored. That system has been in the nature of a suggestion that lobster fishing regulations were not to be seriously considered when they came in contact with the desire of anyone bent upon poaching.

A strong factor that has contributed as much as any other to a disregard of fishery laws, consequently, to something like a recognized *modus vivendi*, under which poaching is robbed of a considerable amount of the opprobrium attached to it, is the manner in which the fishery guardians and other officers, not coming under the Civil Service Act, obtain their appointments. Their tenure of office is very insecure, but not because of any failure on their part to discharge their duties.

Many of the guardians alternate from the position of fishery officers to that of poachers and vice versa. It is quite a common occurrence to see that a guardian finds himself presiding over the protection of lobster fishing in a section where he has been very successful in poaching the year before. And if anything is needed to make the situation worse, it is the fact that his appointment as guardian has been obtained by him, through the influence of men who are poachers in the very district assigned to him for lobster fishing protection.

It has happened, not seldom, that a guardian jumped off his boat to grasp an appointment of fishery guardian for the very section wherein his traps were set. In some cases the change was so sudden that he did not have the time—perhaps not the desire—to remove his traps out of the water. When called to testify they admit very frankly that they make no attempt to enforce law. In some cases the same traps continued fishing in the hands of their partner. In other cases they are taken out of the water for a few days but reset by their friends. "I had landed one hundred pounds of poached lobsters the morning I was appointed. I did not tell anyone to take up my traps," stated one of the officers on a patrol boat in Prince Edward Island.

He never destroyed any traps. He admitted that his report was false, that he wanted to fool officer Palmer. He saw lots of buoys but never touched one. About all he and his associate officer did on the patrol boat was to sail around the North Point of the Island. They destroyed no traps nor made any attempt to destroy any. It can be said, however, that the patrol boat at their disposal was

rather unfit for such work. But that did not excuse them for not reporting to their superior officer the large number of buoys visible in the water. With a little bit of zeal they could have extended their operations on land, where the captain's past experience in poaching might have been rewarded with the detection of his former co-poachers.

One excuse given by past fishery officers for their failure to discharge their duties, was that they did not want to make bad friends among their neighbours for the sake of a few weeks' hire.

It goes without saying that if the fishermen could not obtain a market for their illegally caught lobsters they would not fish. Unfortunately for the protection of the lobster fisheries, many large buyers have shown themselves ever ready to assist the fishermen in their illegal pursuit. They have supplied them with cans, sometimes with advances in cash. After the lobsters were canned they have helped the fishermen in every way to bring their poached pack to market. Some became accessories after the fact by returning to the poachers the permits already used. This information should prove valuable to the inspectors who, placing too much confidence in some buyers, have issued to them permits in blank.

The protection of lobster fishing will never clear itself completely of difficulties unless the officers are assured of the whole-hearted support and co-operation of the public at large. That support and co-operation, sparingly given in some sections, have been completely withheld in others. No officer can expect to get information when poaching was going on, whether the person questioned was a poacher or not. The extent of the difficulty encountered by officers in discharging their duty under such circumstances cannot be exaggerated. All their duties are not limited to outside work. They have clerical work as well that absorbs, at certain periods, a considerable part of their time.

A ray of hope for improvement can be seen in the disappearance of the now well-known Chockpish line. With the northern boundary of District No. 8 removed to where it is now, the opportunity for poaching should be greatly diminished. It would have been expecting a good deal from fishermen to refrain from poaching when a large factory was allowed to can lobsters in a close district; especially when that part of the close district adjacent to the factory is good lobster-fishing ground. If operating that factory during the late season was not inviting poaching, it was putting a premium on it.

SMELTS

The fourth matter to be considered is set out in the Commission as follows:—

4. "Whether illegal smelt fishing during the fall of this year occurred and was inadequately dealt with by the aforesaid local employees."

The infractions to the smelt fishing regulations happen in one of the following ways: fishing without a license, fishing in the close season, fishing with box-nets or bag-nets during the gill-net fishing season. There was a sporadic outbreak of illegal smelt fishing in the fall of 1936. Most of it was done by using box-nets and bag-nets in the gill-net season. Mr. Williston seized one box-net and two bag-nets in his district in Bay du Vin River on November 27, 1936. But there was no serious illegal smelt fishing in his district. In Mr. Long's sub-district the poaching was more pronounced but it seems that the total quantity of smelts illegally fished during the gill-net season did not amount to more than two or three tons.

The illegal fishing, however, was immediately taken in hand by the local employees and other officers. In Mr. Long's district the local employees, aided by the captains of the patrol boats, Captains McGraw, Hubbard, Kelly, and Groat, seized in the vicinity of ten box-nets. On one occasion it was in the face

of threats from a crowd of poachers. Fishery officers explored the Richibucto river and found dams built across it for the purpose of catching smelts to be used, supposedly, for fox feed.

In Mr. Collette's district there were several attempts at illegal smelt fishing also and a considerable number of nets were seized: 24 gill-nets, 9 bag-nets, 4 box-nets and 75 pounds of smelts. In those three sub-districts the situation was speedily and efficaciously handled.

The answer, therefore, is that in the three above-named sub-districts, whatever illegal smelt fishing took place, it was attended to at once by the officers and checked. It was adequately dealt with by the employees.

In Mr. Ulric LeBlanc's sub-district there was an epidemic of illegal smelt fishing which was not considerable and somewhat scattered. One buyer purchased about a ton, that had been fished with box-nets set about November 5. There were quite a few fishermen who set their box-nets a few days before the box-net season. But with the exception of the one ton purchased from several buyers, there is no evidence of any large quantities of smelts having been poached, the different catches ranging in weight from 125 to 150 pounds, and not many of those. The illegal poaching of smelts in Mr. LeBlanc's district was not considerable, but whatever was done went unchecked. Mr. LeBlanc stated that he did not catch one poacher of smelts last year.

Evidence was given that in years past, in Prince Edward Island, immense quantities of smelts were fished illegally in the spring of the year, spread over the land as fertilizer or used as fox-feed. That was prevalent in Queens County. Some of that was also done in a few of the streams that empty into the Dunk river.

There is no evidence of any serious illegal smelt fishing on the Island. The evidence reveals very little violation of smelt fishing. One case was reported when two gill-nets were seized. A few commenced to fish a day or two before the season opened, or remained fishing a day or two after it was closed. Inspector Martin found a man and a boy illegally fishing smelts on the 29th of April last. They had about 15 pounds caught. They were prosecuted. The boy got one year suspended sentence, and the man was fined one dollar and costs.

Prince County emerges with a pair of white gloves. If there were infractions of the law they consisted in setting a few nets a day or two before the season, or leaving them in the water a few days after it was closed. On the whole, it can be said that there was a very small amount of illegal smelt fishing in the year 1936 in Prince Edward Island.

It has been freely stated by several witnesses that gill-nets are only a blind for box-nets. As the setting of gill-nets in the fall is left to the choice of the fishermen, the result is that gill-nets are set only in certain sections, leaving breaks between what can be called gill-net and non-gill-net sections. The situation seems annoying to everybody—fishermen and officers.

Members of the Royal Canadian Mounted Police, not being regular fishery officers but lending their aid when asked, have not been mentioned specifically in this report. To make it clear that they are not included among the officers who have been found inefficient in the discharge of their duties, I desire to say that wherever they have been called upon to act, members of the Royal Canadian Mounted Police have given very valuable assistance and have discharged their duties efficiently.

December 4, 1937.

Respectfully submitted,

ARTHUR T. LEBLANC,
Commissioner.

Der Kaiser
Der Kaiserin
Der Kaiserin
Der Kaiserin
Der Kaiserin

The Committee, therefore, on the recommendation of the Minister of Fisheries, advise that the above cited Order in Council be hereby amended so as to extend the authority of Mr. Justice LeBlanc as a Commissioner to inquire into the above mentioned charges against Fisheries Inspector James J. Losier.

Alwasanji Long.

Approved

Tweedmouth
1. 3. 37

COMMISSIONER'S REPORT CONCERNING CERTAIN CHARGES OF FAVORITISM AND OF FAILURE TO ENFORCE FISHERIES LAWS IN HIS DISTRICT, AGAINST JAMES J. LOSIER, WHOSE DISTRICT COVERS A PORTION OF GLOUCESTER COUNTY IN NEW BRUNSWICK.

By virtue of an amended Commission issued the first day of March, 1937, enlarging the scope of an inquiry made by me by virtue of another Commission, I have made an investigation of certain charges made against Fisheries Inspector James J. Losier, whose district covers a portion of Gloucester County, New Brunswick, to the effect that he had shown favoritism and had failed in the discharge of his duties in his district.

I now beg to report as follows:

The Inquiry was held at Tracadie, in the County of Gloucester, where the said Inspector and the persons making the charges against him reside. The hearings opened on Friday forenoon the 10th of September instant in the Parish Hall, and were public. They lasted until late Saturday evening.

The charges against the Inspector were laid by Mr. Arthur Ferguson, of Tracadie, in a letter under date of January 5th, 1937. In that letter Mr. Ferguson gives the names of ten persons who, presumably, could give evidence to substantiate the charges made by him in that letter. Eight of those persons and Mr. Ferguson himself were examined under oath. The two who were not examined are Léon Breau and Frank Benoit. Léon Breau is away and while Frank Benoit did not testify, his brother Tranquil, who was named along with him, in connection with the charge against Losier, was examined. Altogether seventeen persons were examined some of whom had not been named in Mr. Ferguson's letter of accusation.

Following the order in which the charges were made in Mr. Ferguson's letter the first one was that

of Mr. Fred C. McLaughlin to the effect "that he was the first one to set a net for smelts at Mario Gautreau's shore so called, being at the time protected by a fishing license. Then Alex Doiron came and set his net 100 yds. away from him, and that Tranquil Benoit next came and set his net 80 yds. only from Alex Doiron's net causing Alex Doiron to complain. Inspector Losier came and seized Fred C. McLaughlin's net and then moved Alex Doiron's net 20 yds. from Tranquil Benoit so that Benoit's net would stay where it was. At the same time Fred C. McLaughlin claims that his net was illegally and unjustly seized and taken away by Inspector Losier".

The evidence shows that Mr. McLaughlin had been fishing with a bag net in the open water at that place shortly before. That the water had frozen over and that in the evening of the day when the water had frozen, he had cut holes in the ice for the purpose of setting box nets. The holes were marked with small pickets and were a few yards away from where McLaughlin had fished in the open water with bag nets. Mr. McLaughlin claims that because he had cut holes in the ice for his bag nets it gave him the right to set his box net in the holes he had cut. The next morning, however, Tranquil Benoit and Alex Doiron were there before McLaughlin, and set their nets in holes which they cut themselves in the ice. Doiron set his net not more than 25 yds. from the holes cut in the ice by McLaughlin. McLaughlin had a license to fish while Doiron said he had none but obtained one one day after. Doiron says that he set his net 42 yds. from the holes cut by McLaughlin, and that Tranquil Benoit set his nets 80 yds. from his, Doiron's nets. Inspector Losier told Doiron to move his net 20 yds. towards McLaughlin's net and Doiron moved them. His nets were a hundred yards from the spot where McLaughlin

had had his bag nets. Tranquil Benoit says that he was the first one to set a box net on the ice that morning, that Alex Doiron was next, and Fred McLaughlin after Doiron. That Doiron set his box net 80 yds. from his, Tranquil Benoit's net, and that McLaughlin set his net fourteen steps from Alex Doiron. That the Inspector told Doiron that he was too close to Benoit and made him move 20 yds. towards McLaughlin. In the meantime McLaughlin had moved 27 yds. away from Doiron's net, and then Losier told McLaughlin to move his net and McLaughlin promised Losier to move his box net to the place where he had had his bag net before, but he did not do so.

From the evidence given in connection with that charge it seems that the complaint started from the fact that McLaughlin thought he was entitled to hold as his fishing ground for box net the spot where he had out the holes in the ice, on the evening previous to his going to the ice to set his box net. But when he arrived there Benoit and Doiron were already there and had set their nets or were in the act of setting them, without paying any attention to the holes out by McLaughlin the evening before. The evidence shows that Doiron removed his net away from Benoit's and towards McLaughlin at the request of the Inspector, and that at ~~at~~ sometimes in the happenings, McLaughlin promised the Inspector to move his box net ~~to~~ to the spot where he had had his bag net before. That would have made the relations between the Inspector and the fishermen run smoothly. The Inspector got in touch by phone with Supervisor Barry and was instructed by the latter to give McLaughlin a definite time to remove his box net away from Doiron's net, and in case McLaughlin refused, to take the net out of the water himself. Following the Supervisor's instructions Losier told McLaughlin five or six times to remove his nets. McLaughlin refused. He thought that

because he had fished there first in the open water with bag nets and had cut holes in the ice for box nets at that spot before anyone else, that he was entitled to set his box nets where he had cut the holes.

Under the regulations these nets must be set at least 100 yds. apart and the Inspector has the duty of allocating to the fishermen their respective spots for fishing. Upon arriving on the ice the Inspector made inquiries as to who was first on the ice that morning to fish with box net, and he was told that it was Benoit and Doiron. While McLaughlin did move his net twice he was still too close to his neighbor. And if he had moved his box net to the spot where he had fished with the bag net in the open water, what he was told to do by the Inspector and what he wanted to do according to his evidence when he said "I had obtained permission from Losier to put my box net where I had my bag net before", there would have been no trouble.

No place had been allocated to the fishermen by the Inspector and I do not think McLaughlin had any right to assume that he could, as a matter of right, place his box net in the holes that he had cut in the ice the evening before, unless he was given permission by the Inspector. It is clear by the evidence that the three men, Benoit, Doiron and McLaughlin were too close together according to the regulations and that two of them had to move. Under the circumstances in evidence surely it was the Inspector's right to decide who should move. The fact that he consulted the Supervisor and followed his instructions shows that he wanted to discharge his duty. He warned McLaughlin five or six times to take up his net after McLaughlin had fished twelve or fifteen days. Upon McLaughlin's refusal to do so there was nothing left for the Inspector to do but to remove the nets. The nets did not belong to

McLaughlin but to A. & R. Loggie Company Limited. Although Doiron had no license to fish on the first morning that he set his box nets, he acquired one a day afterwards. It does not appear that the point was made by McLaughlin against the Inspector. Inasmuch as McLaughlin fished twelve or fifteen days after, Doiron had a license then and McLaughlin should have removed his net at the Inspector's demand. It seems to have been taken for granted by everybody ^{that} they all had licenses although Doiron only procured his a day after. That does not seem to have any great significance in the matter. I find that the charge against the Inspector fails.

The second charge was that a man named Frank Guignard (Dignard) had been caught fishing in close season along with two other men. That Guignard (Dignard) was made to pay a fine and costs and that the other two were not prosecuted. The evidence shows that on a dark evening, in the fall of 1935, Guignard was caught in the night in the Little Tracadie River, in the close season, with a boat. He was somewhat under the influence of liquor, and had a wet box net in his boat. He told Losier that he was fishing with a box net. That was, of course, in the close season. He went himself with his boat and brought in his box net, which Losier seized. In his evidence at the Inquiry Guignard, whose name is Dignard, admitted that he had been illegally fishing and drinking beer that night. That he had his box net in the middle of the Little Tracadie River, that he had pleaded guilty and was fined ten dollars and seven dollars and fifty-five cents costs. He said there were five other men with him fishing on the river on that occasion, of whom one was his son.

His complaint against Losier is because he had to pay a fine and said that he had no other

complaint against him. He swore that Losier asked him four or five times for the names of the men who were fishing with him that night but that he refused to give him their names. The evidence shows that the night was very dark and that the other poachers were some little distance from Guignard. There is nothing to show that Losier, nor the other two men who were with him, his assistants Albert Arseneault and another man by the name of Charles Robichaud could have caught the poachers. When Guignard refused five or six times to give the Inspector the names of the men who were illegally fishing that night, there was nothing that Losier could do to obtain their names. The second charge concerning Guignard (Dignard) fails utterly.

The third charge alleged that Wilfrid Thomas had told Ferguson that he knew of several men fishing with nets on open water, on Little Tracadie River, and that he was present on one occasion when 'Overseer Losier and his assistant, Alex Saulnier, came and told these poachers that he would lay complaints against them for fishing illegally and that was all there was about it. The reason all these boats were not seized, why so?''.

The only evidence to support that charge was given by Inspector Losier and his assistant Alex Saulnier. On an occasion ^{the} Inspector Losier and his assistant Alex Saulnier were on the shore of the Little Tracadie River and looking across they saw two men. One had a scow and what appeared to be a set of nets. The other was dressed in rubber clothes with a large rubber hat on his head. Neither Losier nor Saulnier could identify these men, but Inspector Losier thought that one of them was a man by the name of Losier. The boats on the bank of the river were filled with ice. The flats were frozen and it was impossible for Inspector Losier and his assistant Saulnier to go across. If

that in the instance mentioned by Wilfrid Thomas to Ferguson, and that is the only one to which the last mentioned evidence would seem to apply, then no fault can be found against Inspector Losier. He went there the next morning but no one was in sight.

The fourth accusation is that in the open season for smelts in the year 1935 "one Onesime McGraw informed Inspector Losier that Wilfrid Thomas was fishing a bag net under the main span of the Upper Little Tracadie Bridge. Overseer Losier went and helped Thomas take his net out from under the bridge, and later Wilfrid Thomas admitted to me that Overseer Losier had returned him his net". It is sufficient to say that in support of that charge Wilfrid Thomas swore before me that he did not remember making such statement, but that if he did make it, it was not true; that officer Losier never returned him his net, Inspector Losier swore that he had seized nets where McGraw had told him that Thomas was fishing illegally, had confiscated and sold them. That he had not returned them to Thomas. That seems to make it unanimous and I must find that the charge has not been sustained.

The fifth charge was "Ambrose Basquo a fisherman under oath who said that Overseer Losier had allowed Frank Benoit and Tranquil Benoit to set a smelt net between nets set by Willie LeBreton and Léon Breau respectively.....that Inspector Barry refused the hearing of this charge".

There was considerable difficulty in obtaining Mr. Basquo to give evidence. He was working in a field very close to the Hall where the investigation was being held, and as he did not appear on the second day of the hearing, men were sent with automobiles to get him, but they could not find him, although he lives less than a mile from the place of hearing. His house was visited in the evening. He was found and brought

before me, commencing to give his testimony in the evening at my hotel, because the hall used previously was occupied in the evening for some social purpose.

The burden of his evidence and his complaint were that Inspector Losier made him remove his ~~small~~ nets away from Willie LeBreton's nets because both nets were joined. Upon the Inspector's request to separate the nets, Basque removed his net and set it a hundred yards away. It appears that Tranquil Benoit and Frank Benoit had earlier set nets at that place and had removed them away at some considerable distance. They came back to the same spot and found that Willie LeBreton and Léon Breau had box nets there, about a hundred yards apart. The Benois, without asking the Inspector's permission, placed box nets between the two nets that were there. They fished there only two weeks and Breau removed his net first; then the Benois moved. Basque also complains because Inspector Losier made him remove his net and left the Benois there. The Inspector said he did not see the Benois put their nets at that place but that he saw them there with a sled and an axe, but that he moved away. That seems to be all there is to say about that. There can be no doubt that the Inspector was right to make Basque move his nets away from LeBreton's net, the wings of the two nets adjoining together. Basque admitted that LeBreton had his net there first. He says he has not got very much against Losier. The evidence supports neither a charge of favoritism, partiality or failure in the discharge of duty.

Mr. Breau was in St Stephen, New Brunswick, apparently and it was not worth the while to bring him all the way from there to give evidence in Tracadie. Mr. Basque had given about all the evidence that could be given. LeBreton, who was called had very little to

say. He had no complaint against the Inspector. When asked to give an opinion about Losier he answered "I would say he is discharging his duty as a fishery officer in a proper manner". By way of supporting his charge against Inspector Losier of partiality towards Frank Benoit and Tranquil Benoit, whom Mr. Ferguson called the Inspector's friends, Mr. Ferguson declares that having provided himself with a license to fish a box net in the open season of 1935, he had selected a fishing ground where he had decided to set his net, and it was held by himself only. That for three weeks before the open season, Tranquil Benoit and Frank Benoit were allowed to set their nets ^{there} from the A. & R. Loggie Co. to the knowledge of Inspector Losier.

If I understand the evidence of Mr. Ferguson, his complaint in that regard is that a decoy rope was set by Frank Benoit and Tranquil Benoit and kept by them for three weeks at the spot selected by him for his box nets. There is no evidence that Inspector Losier knew that the rope in question was a decoy nor that it was Frank Benoit and Tranquil Benoit that had put it there. If the rope was there it fooled both Ferguson and the Inspector. That's all there is to say about that. It was neither a case of favoritism nor a failure in the discharge of a duty. There was no evidence neither, that Inspector Losier knew of any company buying smelts from poachers in close season.

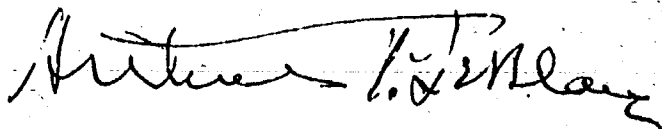
A careful reading of the evidence might reveal here and there a few instances where it can be said that on a few occasions the Inspector was not very sharp. In that connection I would refer to the evidence of Willie L. Benoit, who swore that he fished the company's nets in 1935, and that he fished the whole winter of 1936, without a license. That was the only complaint he had against Losier. And if that were a matter of frequent

occurrence it would be an important complaint. In palliation of that it must be borne in mind, that during the smelt fishing season, the Inspector has hundreds of licenses to issue and consequently hundreds of men under him fishing over whom he has supervision. Moreover, the coast line within his jurisdiction extends over a considerable distance. It would not necessarily be a failure in the discharge of his duty if one or two or even three men succeeded in escaping the Inspector's attention and fished all winter without a license, unless more was shown. From that to a case of favoritism and failure to discharge his duties there is a considerable distance.

Perhaps in fairness to Mr. Ferguson, who seems to have been very much instrumental in bringing about this investigation, I should say that on the stand, he admitted that of his own knowledge he knew of no breach of duty by Inspector Losier, nor of any favoritism that he had shown. Evidently, Mr. Ferguson had been misled by people who, on the stand, failed to substantiate the information they had given him.

All the charges against Inspector Losier, whether for alleged favoritism or for failure in the discharge of his duties as fishery Inspector, failed for want of evidence to support them.

Dated at Moncton, N.B., September 17th, 1937.



COMMISSIONER.