

# **Peter Mitchell and the Genesis of a National Fisheries Policy**

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## Peter Mitchell and the Genesis of a National Fisheries Policy

When the Civil War ended in the United States, Americans seemed ready to strike at Canada's throat. With the end of the Reciprocity Treaty, with the withdrawal of British troops from North America, and with Fenian raids continuing along the heavily defended border, Canada's future seemed precarious in early 1867.<sup>1</sup> The United States Congress appeared hostile to the new nation and the Alaska Purchase, announced by William Seward in the spring, was greeted with the conviction that America's Manifest Destiny lay to the north.<sup>2</sup> Congressman Henry Raymond, editor of the *New York Times*, submitted a resolution "declaring that the establishment in the immediate proximity of the United States of a powerful monarchy, under the support of a foreign nation, cannot be regarded otherwise than as being hostile to the peace and menacing the safety of this republic, . . ."<sup>3</sup> Nathaniel P. Banks, a Massachusetts Congressman, deplored "the proposal to organize a confederation founded on the monarchical principle without consulting the people of the Provinces."<sup>4</sup> Such hostility, wrote the *Montreal Gazette*, created a bond among the people of British North America to resist United States pressure.<sup>5</sup> This sense of Canadian nationality would be reinforced by a number of factors in the next ten years. None would be so important as the continuing

1 See Robin W. Winks, *Canada and the United States: The Civil War Years* (Baltimore, 1960), p. 372.

2 This writer can find no persuasive evidence that Seward did intend to use the Alaska purchase to annex British Columbia or other sections of British North America, but for a recent statement of the so-called "encirclement thesis" see Lloyd C. Gardner, Walter F. LaFeber, and Thomas J. McCormick, *Creation of the American Empire: U.S. [sic] Diplomatic History* (Chicago, 1973), p. 189.

3 *New York Times*, 28 February 1867; *Congressional Globe*, 39th Cong., 2nd Sess. (1866-1867), pp. 1617, 1646.

4 *Congressional Globe*, 40th Cong., 1st Sess. (1867), p. 392.

5 *Montreal Gazette*, 4 April 1867.

tension between New England and the Maritime Provinces over the wealth of the Canadian inshore fisheries.<sup>6</sup>

The New England economy relied on fish, but mackerel, which had become the most valuable food fish in the 1850's, had the annoying habit of concentrating within three miles of the shores of Nova Scotia, New Brunswick, and Prince Edward Island. During the years of the Reciprocity Treaty, 1854-1866, American fishermen were allowed within these waters and imported Canadian natural resources faced no tariff in the United States. But when the Republic abrogated reciprocity in 1866, the fisheries became a dangerous element in the relations of Canada, the United States, and Great Britain. An attempt to have New England fisherman purchase licenses failed in 1866. The Lieutenant-Governor of Prince Edward Island reported in 1867 that "very many [New England fishermen] have made up their minds to fish in British waters without licenses, feeling that the chances of their being . . . boarded, and their licenses demanded, are very remote."<sup>7</sup>

The British North America Act gave control of the fisheries to Ottawa and Prime Minister John A. Macdonald appointed Peter Mitchell to head the new Ministry of Marine and Fisheries. Born at Newcastle, New Brunswick in 1824, Mitchell was first elected to the New Brunswick House of Assembly in 1856. Mitchell came from the Miramichi, where he was involved in lumbering and shipbuilding, and was a strong adherent of the Intercolonial Railway. A cabinet member in Fredericton from 1858 to 1865 under the leadership of Charles Fisher and Samuel Leonard Tilley, he attended the Quebec Conference of 1864 and played a key role in the defeat of Albert J. Smith's anti-Confederation ministry in 1866. Mitchell attended the London conference in 1866 and became a senator in 1867. Mitchell was irritated when Macdonald assigned him only the "minor" fisheries post, but he resolved to make his new department important.<sup>8</sup>

6 The best study of the fisheries dispute during this period is Ronald S. Longley, "Peter Mitchell, Guardian of the North Atlantic Fisheries, 1867-1871," *Canadian Historical Review*, XXII (1941), pp. 389-402. Also useful are Raymond McFarland, *A History of the New England Fisheries* (New York, 1911); George B. Goode, *et al.*, *The Fisheries and Fishery Industries of the United States*, seven volumes in five sections (Washington, 1884-1887); Ruth F. Grant, *The Canadian Atlantic Fishery* (Toronto, 1934); and Harold A. Innis, *The Cod Fisheries: The History of an International Economy* (Toronto, rev. ed., 1954).

7 George Dundas to Duke of Buckingham and Chandos, Charlottetown, 14 August 1867, enclosure to Elliot to Hammond, Colonial Office, 23 August 1867, FO 414, Vol. 28, microfilm, Public Archives of Canada [hereafter cited as PAC].

8 See Esther H. Greaves, "Peter Mitchell: A Father of Confederation" (unpublished M.A. thesis, University of New Brunswick, 1956), p. 56; MacDonald to Mitchell, Ottawa, 1 June 1867, John A. Macdonald Papers, vol. 513, PAC. For Mitchell's views on his appointment, see Peter Mitchell, "The Secret History of Canadian Politics," *Toronto Evening News*, 15 February 1894, typescript copy in Peter Mitchell Papers, Harriet Irving Library, University of New Brunswick. The Mitchell Papers at Fredericton are composed almost entirely of business correspondence of the pre-Confederation period.

When Mitchell arrived in the national capital in July of 1867 he faced enormous problems. The license system begun in 1866 lay in virtual ruins, with New England fishermen freely entering inshore waters without paying tonnage fees. His immediate problem was to decide between the Canadian fee of fifty cents and the Maritime fee of one dollar per ton of ship's weight. Mitchell's first public statement was a model of restraint. He declared that "if a proper course were pursued by the Dominion — one of conciliation and prudence — much of that spirit of hostility and retaliation . . . would give way . . . and . . . they [United States] would in induced to relax their restrictive policy."<sup>9</sup> This spirit changed quickly. On August 1 Mitchell surprised the Prime Minister by saying that because the Maritimes were still issuing licenses at one dollar, "I have thought best to adopt same [policy] and have issued to Commodore Fortin the necessary blank licenses."<sup>10</sup> Macdonald frantically tried to stop his minister from carrying out the action, but he acted too late. Two days after his first message, Mitchell reported from Bathurst that Fortin had left with his licenses, and it was impossible to contact him.<sup>11</sup> Mitchell's initiative left no alternative to the Colonial Office, which had ordered the fee to be equalized at fifty cents, but to sanction the increase in the Canadian fee.

Certainly changes were needed before the 1868 season began. Of the approximately eight hundred United States vessels which fished Canadian waters in 1867, only two hundred ninety-five had licenses.<sup>12</sup> The fish caught by unlicensed Yankees competed in United States markets with Canadian fish which faced a high duty.<sup>13</sup> The inspector of fisheries in Nova Scotia reported that "the encroachment of American fishing vessels on our coast and on our best fishing grounds, was a subject of loud complaint in all the places I visited; and the utter disregard of all the regulations of the province manifested by them was the cause of great injury to the fishing grounds and of growing discontent among our fishermen."<sup>14</sup> The captain of a British vessel in the protection service pointed out that it was impossible to make Americans take out licenses or to stop fishing because three warnings had to be given before the offending vessel could be seized. The New Englanders could "transgress the laws with perfect impunity, and make those engaged in protecting the fisheries a laughing stock to the Americans."<sup>15</sup> Lord Monck, the Governor-General, suggested a compromise to the cabinet: "to allow

9 Saint John *Telegraph*, 3 June 1867, cited in Montreal *Gazette*, 11 June 1867.

10 Mitchell to Macdonald, telegram, Newcastle, 1 August 1867, Macdonald Papers, Vol 75, PAC.

11 Mitchell to Macdonald telegram, Bathurst, 3 August 1867, *ibid*.

12 Report of Peter Mitchell for 1867, Canada, *Sessional Papers*, 1869, No. 12.

13 Dundas to Buckingham, Charlottetown, 25 September 1867, FO 414/28, PAC.

14 Report of W.H. Venning for 1867, Canada, *Sessional Papers*, 1868, No. 43.

15 Captain R.V. Hamilton to Admiral Sir Rodney Mundy, 30 October 1867, Admiralty 128/64, microfilm, PAC.

unrestricted access to Canadian fisheries to U.S. fishermen on condition that the markets of the U.S. shall be then open to Canadian fishermen."<sup>16</sup> Although the Macdonald government approved this proposal for modest reciprocity, the United States refused to consider new reciprocal trade relations with Canada.

Mitchell considered limited reciprocity impractical in 1868 and planned to raise license fees and limit the number of warnings to Yankee trespassers.<sup>17</sup> Mitchell and Macdonald tried to convince the Colonial Office to approve increasing the license fee to two dollars and decreasing warnings from three to one, and, after great difficulty, won approval for a two dollar fee with one warning.<sup>18</sup> Macdonald and Mitchell had won a major victory for autonomy in Canadian fisheries policy, but caution remained the keynote for imperial authorities. The Governor-General sternly warned the cabinet that the present state of the relations between England and the U.S. render it necessary that great care should be taken that no act on the part of any British dependency should introduce fresh complications into these relations."<sup>19</sup> This became the pattern of Anglo-Canadian relations between 1867 and 1871. The Foreign Office urged tolerant treatment of the New England fishermen because of British problems in Europe. Mitchell, usually supported by Macdonald and the government, favoured strong action to force a new reciprocity treaty, but was continually hampered by London.

The instructions for 1868 to officers in the protection service reflected British timidity. The Admiralty warned that "rights of exclusion shall not be strained. Compulsory means may be employed, but such resort to force will be justified only after every other prudent effort has failed."<sup>20</sup> Peter Mitchell was forced to issue the same orders to Canada's fisheries protection vessel, *La Canadienne*. Particularly bitter for Mitchell was the British decision not to enforce the nettlesome headlands question, nor any other issues "which are in their nature open to any serious question . . ."<sup>21</sup> The headlands issue was a long-standing dispute between the United States and the Maritimes,

16 Lord Monck, Memorandum to Privy Council, 21 January 1868, Series G, Vol. 21, File No. 130, 1(a), Governor-Generals' Correspondence concerning the Fisheries, PAC; enclosure in Adderley to Hammond, Colonial Office, 1 April 1868, FO 414/28, PAC.

17 Report of Peter Mitchell for 1867, Canada, *Sessional Papers*, 1869, No. 12.

18 Charles Tupper to Buckingham, copy, London; 9 April 1868; Macdonald to Tupper, draft telegram, Ottawa, 7 April 1868, Macdonald Papers, Vol. 281, PAC; Tupper to Macdonald, London, 2 May 1868, Vol. 282; Buckingham to Monck, updated copy, 1868, Vol. 75. See also Buckingham to Monck, Colonial Office, 9 May 1868, in Canada, *Sessional Papers*, 1869, No. 12, Appendix 9; and Elliot to Admiralty, Colonial Office, 9 May 1868, G 21/130/1(b), PAC.

19 Lord Monck, Memorandum to Privy Council, 11 March 1868, G 21/130/1(a), PAC.

20 Special Instructions to Fishery Officers Engaged in Protecting the Fisheries of Canada, printed copy, London, 23 May 1868, *ibid*.

centering upon entrance to bays. The United States had always claimed that the three-mile limit followed the sinuosities of the coast, while Britain traditionally contended that the line did not exactly follow the rocky coast; the line was to run on an angle from headland to headland, effectively closing Canadian bays to American fishermen. Failure to uphold the traditional position on the headlands made the American fishermen even bolder. In fact, the fishing season of 1868 was a failure for Mitchell. Only sixty-eight licenses were sold at two dollars, compared to two hundred ninety-five in 1867 at one dollar, and four hundred fifty-four in 1866 at fifty cents.<sup>22</sup> The most obvious reason for the smaller number of licenses sold was the increase in price, but Mitchell was also hampered by British policy. New Englanders had fished with impunity for two years and guessed correctly that the British would not enforce the law in 1868, although the reduction in warnings made the procedure somewhat more hazardous.

With a jaundiced eye, Mitchell surveyed the wreckage of his policy. He wanted to end the license system, because "its past continuance has not led to any desirable results," and begin a policy "consistent with national dignity and rights." At the very least, he felt that if the license system was to continue, "the whole administration of it should be placed under the control of the Government of Canada."<sup>23</sup> Nonetheless, Canada demanded more help from Great Britain. Two members of the Canadian government, Sir George Etienne Cartier and William McDougall, were in London negotiating the purchase of the Northwest from the Hudson's Bay Company. In March they informed the Colonial Office that American vessels had caused severe harm to Canada in 1868 and that the experience of the past year proved that "the license system cannot be properly enforced unless the vessels . . . of the Government of Canada . . . are aided and assisted by Her Majesty's Navy."<sup>24</sup> But even when the Admiralty promised to send more ships to the Gulf of St. Lawrence, Mitchell reported that the Canadian protection service would be expanded because of his lack of faith in the Navy.<sup>25</sup> A debate

21 Special Instructions to Fishery Officer Commanding the Government Vessel Engaged in Protecting the Fisheries of Canada, Ottawa, 23 May 1868, FO 414/28, PAC. See also Perry M. Mulock, "The North Atlantic Fisheries, 1865-1885: A Study in Canadian and American Relations" (unpublished M.A. thesis, Acadia University, 1939), pp. 19-20.

22 Canada, *Sessional Papers*, 1869, No. 12, Appendix 9.

23 Report of Peter Mitchell for 1868, *ibid.*, No. 12.

24 Cartier and McDougall to Sir Frederic Rogers, London, 23 March 1869, G 21/130/1(b), PAC. See also Ronald S. Longley, "Cartier and McDougall, Canadian Emissaries to London, 1868-9," *Canadian Historical Review*, XXVI (1945), pp. 25-41.

25 Romaine to Rogers, Admiralty, 12 April 1869, enclosure in Rogers to Young, Colonial Office, 30 April 1869, G 21/130/1(a), PAC; Report of Peter Mitchell, 29 April 1869, to be forwarded to Sir Rodney Mundy, enclosure in Whitcher to Turville, Ottawa, 30 April 1869, *ibid.*

in the Canadian House of Commons in May, 1869 illustrated the hardening Canadian attitude. Most speakers agreed that protection was a farce and that the British government was to blame.<sup>26</sup> Alarmed at this parliamentary criticism of his moderate policy, Macdonald told the House that reciprocity was near and that it was therefore necessary "to keep on friendly terms with our neighbors, and not provoke them to hostility by excluding them from our fishing grounds."<sup>27</sup> The expanded protection service and vague promises of reciprocity helped Macdonald mollify the extremists for one more year.

Certainly moderation characterized the fisheries policy pursued by Mitchell and Macdonald in 1869. Only petty bickering between Admiral Sir Rodney Mundy, who was displeased with Mitchell's suggestion that he was not doing a proper job, and the Minister of Marine and Fisheries enlivened an otherwise dull fishing season. In line with the withdrawal of British soldiers from Canada, the suggestion had been made that the protection should be entirely Canadian,<sup>28</sup> but the Admiralty expected United States warships in the Gulf to protect the seven hundred fishing schooners anticipated during the season, and feared that the seizure of an American vessel might have grave consequences.<sup>29</sup> While Great Britain considered the fisheries a "purely local" problem, the Colonial Secretary declared that "its bearing on the relations between this country and a Foreign Power, and thus on Imperial interests . . ." made it necessary that Canadian protection vessels "be placed under the control of the Imperial Officers in Command."<sup>30</sup> Mitchell took strong exception to the decision to place Canadian vessels under imperial command, a measure the sensitive Canadians considered a threat to their fragile sovereignty.<sup>31</sup>

Moreover, New England fishermen mocked Canadian sovereignty and Mitchell's license system during the 1869 season. Only thirty-one licenses were sold to a mackerel fleet numbering between seven hundred and one thousand vessels.<sup>32</sup> Canadian fishery officers and the public voiced strong resentment at liberties taken by Yankee fishermen in Canadian territory. Commander Napoleon Lavoie of *La Canadienne* reported to Mitchell that on several occasions New England sailors went ashore and "committed all

26 *Montreal Gazette*, 14 May 1869; *Toronto Globe*, 14 May 1869; *The Times* (London), 14 May 1869; *New York Times*, 18 May 1869.

27 *Montreal Gazette*, 19 May 1869.

28 W.G. Romaine to Rogers, Admiralty, 12 April 1869, G 21/130/1(b), PAC.

29 Romaine to Rogers, Admiralty, 4 June 1869, G 21/130/1(a), PAC. Many documents concerning the fisheries question, such as this one, are duplicated in the G series, in FO 414, and in CO 42.

30 Granville to Young, Colonial Office, 21 June 1869, G 21/130/1(b), PAC.

31 Report of Peter Mitchell, 21 June 1869; Minute of Council, 23 June 1869, *ibid.*

32 Canada, *Sessional Papers*, 1870, No. 11, Appendix 18.

kinds of disorder, so much so, that the inhabitants were obliged to put night watchmen to guard their property, and secure themselves against the outrageous conduct of these people.”<sup>33</sup> Indeed the New England buccaneers hinted at violence to retain their fishing privileges. The New York *Tribune* reported the fishermen of Gloucester “have armed themselves abundantly with Enfield rifles on their last two or three voyages, with the firm resolution of maintaining their position by force in case of molestation by meddlesome revenue cutters. The patience of the fishermen is exhausted; and being now satisfied that their just privileges have been invaded, they will not hesitate to make quick work of any British crew . . . .”<sup>34</sup> Battle lines were being drawn for the critical season of 1870, although the New York *Times* warned: “Enfield rifles in the hands of Gloucester fishermen are not the best means of making wrong right.”<sup>35</sup>

The Macdonald government had hoped that by increasing the price of licenses New England fishermen would urge Washington to negotiate a new reciprocity treaty, but by 1870, was forced to admit that its policy had failed. When the Grant administration refused to consider reciprocity, Canada responded by considering tariff barriers against United States manufactures. Charles Tupper declared that a reciprocity of tariffs would bring true reciprocity to Canada. “Should we allow the best interests of the country to be sacrificed,” he asked the House, “or uphold a bold national policy [cheers] which would promote the best interests of all classes and fill our treasury?”<sup>36</sup> Moreover, Peter Mitchell at last received approval in both Ottawa and London for a policy of excluding American fishermen. Mitchell argued that licensing had failed because the Royal Navy had not been vigorous. He pointed out that in four years not one New England vessel had been detained by British ships, which meant the United States still enjoyed the fishing privileges of the reciprocity era. The New Brunswick man requested a strong British naval force in the Gulf of St. Lawrence during the 1870 season, to be supplemented by “a sufficient number of sailing vessels armed and equipped by the Canadian Government as a Marine Police, . . . .”<sup>37</sup> Mitchell wanted six sailing ships between eighty and one hundred and thirty tons, similar to *La Canadienne*, resembling the New England fishing schooners.<sup>38</sup>

33 Report of Napoleon Lavoie for 1869, *ibid.*, Appendix 3.

34 New York *Tribune*, 19 October 1869.

35 New York *Times*, 20 October 1869.

36 Canada, *Parliamentary Debates*, 1870, 18 February 1870, p. 107. A draft of Tupper’s speech is in the Sir Charles Tupper Papers, Vol. 3, PAC.

37 Peter Mitchell, Report on Fishery Policy, in connection with Earl Granville’s Despatches, Ottawa, 20 December 1869, enclosure in Frederic Rogers to Spring Rice, Colonial Office, 12 March 1870, FO 414/28, PAC.

38 The other Canadian fishery protection vessel at the time was the steamer *Druid*, which was based in Halifax and was ineffective against the New England schooners.



By February 1870, Great Britain reluctantly agreed that the exclusion of the New England fleet, with strong support from the Royal Navy, was an experiment worth attempting.<sup>39</sup>

Mitchell and other extremists within the cabinet rode a growing tide of public sentiment for an end to the license policy. This feeling surfaced in early March 1870, before the Canadian Parliament knew of British acquiescence to exclusion. Macdonald interrupted a savage attack on his policy by announcing that "It [is] not the intention of the Government to issue licenses to foreign fishermen during the ensuing season, and it [is] the intention of the Government to take steps to protect the rights of Canadian fishermen in Canadian waters." Pandemonium broke out in the House: both government and opposition party members burst into cheers.<sup>40</sup> Only Liberal spokesman Alexander Mackenzie cautioned against the danger of war on the North Atlantic: "to participate a needless collision with a neighbourly power, would be . . . a most criminal act."<sup>41</sup> The *New York Times*, which found the new Canadian policy predictable in view of the failure of reciprocity, questioned the wisdom of exclusion: "The fishermen constitute a delicate and dangerous question . . . and the presence of British war vessels as auxiliaries in a crusade against American fishermen will restore . . . danger so imminent that a single indiscretion on either side might be the beginning of war." The *Toronto Globe* agreed: "The only way to deal with the people of that country is a kindly spirit; addressing them as neighbors and friends."<sup>42</sup>

When Canadian policy became exclusionary, Great Britain faced a serious threat to its post-war policy of appeasing the United States. John Rose, Canada's quasi-diplomat in London, reported British fears to the Prime Minister late in 1869. Hugh C.E. Childers, First Lord of the Admiralty, told Rose "that the practical duty of enforcing our Fishery Laws next season is going to be thrown on Canada." Childers promised that Britain would provide warships, but he mentioned a variety of reasons why the *political* duty should be assumed by Canada.<sup>43</sup> The British government took extraordinary steps to mollify the United States, and made every effort to insure that "a few barrels of fish" did not cause war or Anglo-American estrangement. United States Secretary of

39 For the negotiations, See Rose to Macdonald, London, 30 December 1869, Macdonald Papers, Vol. 101/1, PAC; Macdonald to Rose, private, Ottawa, 21 January 1870, Vol. 516/4; Rose to Macdonald, London, 10 February 1870, Vol. 258; Rose to Macdonald, confidential, London, 12 February 1870, Vol. 101/1; Rose to Macdonald, private, London, 17 February 1870, Vol. 101/1; Rose to Macdonald, London, 15 February 1870, Vol. 101/1; Rose to Macdonald, private, London, 24 February 1870, Vol. 101/1.

40 *Montreal Gazette*, 4 March 1870; *The Times*, 11 March 1870; Canada, *Parliamentary Debates*, 1870, 3 March 1870, pp. 229-230, 236-237. The debate continued on March 7 and March 9.

41 *Parliamentary Debates*, 9 March 1870, p. 332.

42 *New York Times*, 8 March 1870; *Toronto Globe*, 7 March 1870.

43 Rose to Macdonald, London, 30 December 1869, Macdonald Papers, Vol. 101/1, PAC.

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State Hamilton Fish was informed of the Admiralty's plan to send warships to the Gulf during the fishing season. The British Minister asked Fish "that a sufficient force will be despatched to the same quarter by the Government of the United States, . . . so that both may cooperate together for the maintenance of good order."<sup>44</sup> The United States government did send two unseaworthy steamers to protect Yankee fishermen and to cooperate with the British in maintaining order in the Gulf,<sup>45</sup> but the fishermen of New England insisted they would not be stopped. The *Cape Ann Advertiser* of Gloucester, the leading mackerel port, belliciously predicted that nothing could intimidate the fishermen, "and if there is any mackerel to be caught, they will net their share of them."<sup>46</sup>

Peter Mitchell's Maine Police force was created in 1870 to implement the government's exclusion policy. While British and United States warships sailed the Gulf in harmony, Mitchell's men would have the task of preventing the New England schooners from fishing within the three-mile limit. Mitchell apparently did not expect an armed confrontation with the men of Gloucester and their Enfield rifles, but he obtained cabinet approval for a veritable arsenal for his tiny force. Included in their arms were one hundred cutlasses, one hundred muskets, and several brass guns.<sup>47</sup> Colourful pictures fill the imagination of heavily armed Canadian Marine Police boarding Yankee fishing vessels, cutlasses gleaming in the sun, and claiming the schooners in the name of the Queen. History seems more prosaic in this instance, but Peter Mitchell's men were prepared for any eventuality. As the fishing season of 1870 began, although he had only eight vessels and the Royal Navy was ordered not to enforce the headlands issue and to seize Americans only within the three-mile limit, Mitchell felt optimistic that a properly policed system of excluding United States vessels would strain New England's economy and lead to a new reciprocity treaty. Perhaps more important, it would vindicate Canadian dignity.

Disaster struck, however, before the fishing grounds became explosive. The smooth functioning of the Canadian government depended upon John A. Macdonald, but the over-worked Prime Minister, haunted by the Red River crisis and family problems, retreated to the familiar comfort of strong drink. On May 6, Macdonald suffered a vicious gallstone attack. His life

44 Clarendon to Thornton, Foreign Office, 9 April 1870, FO 414/28, PAC. See also Rogers to Spring Rice, Colonial Office, 12 March 1870, G 21/130/2(a), PAC.

45 *New York Times*, 7 April 1870; Thornton to Clarendon, Washington, 25 April 1870, FO 414/28, PAC.

46 *Cape Ann Advertiser*, undated, in *Halifax Citizen*, 17 June 1870, enclosure in Mortimer Jackson to Hamilton Fish, 23 June 1870, Canadian Consular Despatches, Halifax [hereafter cited as *Halifax Despatches*], Vol. 12, microfilm, PAC.

47 Minute of Council, Ottawa, 6 May 1870, G 21/130/2(a), PAC.

hung in the balance.<sup>48</sup> Macdonald's recuperation took months, time spent on Prince Edward Island, far removed from the decisions of government. During the precarious spring and summer of 1870, the cabinet, particularly Peter Mitchell, did not seek drastic solutions to the fisheries quandry but continued the strategy of slowly increasing pressure to force negotiations. Nonetheless the Colonial Office feared the absence of Macdonald's steady-hand. Mitchell came under British fire for two reasons. His Marine Police began to capture New England schooners,<sup>49</sup> and Mitchell provided the main impetus behind an Act passed on May 12, 1870, which gave him the authority he needed to close Canada's ports almost completely to New England vessels.<sup>50</sup> The Act was a restatement of the fisheries provisions of the Convention of 1818, which allowed United States vessels to enter Canadian ports only for food, water, repairs, and shelter. If Mitchell strictly enforced the Act, which he began to do late in the year, New Englanders could not provision in Maritime ports, nor could they trans-ship their catch. This would strike against United States deep sea fishermen, who had not been concerned with exclusion. The Colonial Secretary, Lord Kimberly, heard from one of his officials that "Mr. Mitchell seems to me not very clear and rather pigheaded."<sup>51</sup> Mitchell's power within the cabinet was over-estimated by another Colonial Office official: "Now that Macdonald is no longer at the helm, the [Privy] Council adopts the views of a department's success against its old enemies, the United States fishermen, is the object to which all others rather subordinate."<sup>52</sup> In August, Kimberly felt that Mitchell's extreme behaviour might break the deadlock over negotiations by "showing the U.S. Government that we have our violent men to deal with as well as they,"<sup>53</sup> but by October Kimberly had changed his mind and feared a deterioration in Anglo-Canadian relations.<sup>54</sup> He lectured Canada on its closed port policy: "When you have to deal with a powerful and most unreasonable nation such as that of the United States, the first requisite is to keep one's temper."<sup>55</sup>

48 *The Times*, 13 May, 30 June 1870; Donald G. Creighton, *John A. Macdonald: The Old Chief-tain* (Toronto, 1965), pp. 66-71; Sir Joseph Pope, *Memoirs of the Right Honourable Sir John Alexander Macdonald* (Ottawa, 1894), I, p. 433.

49 Only twelve American fishing vessels were captured by the Marine Police in 1870. See *New York Times*, 30 December 1870.

50 33 Vict., c. 15.

51 Minute on Young to Granville, Ottawa, 3 June 1870, CO 42/686, Microfilm, PAC.

52 Minute of Young to Granville, Ottawa, 9 June 1870, *ibid.*, Vol. 687.

53 Kimberly to Young, private, copy, Colonial Office, 24 August 1870, Kimberly Papers, Correspondence with Lord Lisgar, 1870-1873, microfilm, PAC.

54 Kimberly to Young, private, Colonial Office, 12 October 1870, *ibid.*

55 Kimberly to Lisgar [sic], private, photocopy, 10 August 1870, Lisgar Papers, PAC. Sir John Young did not officially become Lord Lisgar until November. For the reaction of the United States Consul in Halifax to the closure of ports see Mortimer Jackson to Fish, 25 August 1870, with minute by J. Smith, Department of State, Halifax Despatches, Vol. 12, PAC.

The British government soon determined that the choice between Canadian autonomy and amicable relations with the United States would be decided at the expense of Mitchell and his colleagues. Late in August, for example, Kimberly directed the Admiralty to make sure that British officers did not seize New England vessels for victualing at Maritime ports.<sup>56</sup> But Canadian initiative eventually broke the lingering fisheries stalemate. In June, 1870 the government sent Postmaster-General Alexander Campbell to London to discuss the planned complete withdrawal of British troops from Canada in 1871, and its implications in view of Canadian-American hostility.<sup>57</sup> Campbell was also "to induce Her Majesty's Government to propose to the United States the appointment of a Joint High Commission *on which the Dominion should be represented*," to settle outstanding issues among Great Britain, the United States, and Canada, especially those persistent problems of the fisheries caused by the Convention of 1818.<sup>58</sup> The British government agreed to consultations as long as Canada did nothing further to strain Anglo-American relations. The success of the Campbell mission was confirmed later in the year when John Rose met with Hamilton Fish.<sup>59</sup> London made clear that the fisheries dispute must not demolish the delicate entente between the United States and Great Britain.

Britain failed to see that precisely by disturbing the status quo in the North Atlantic, Mitchell's policy of excluding the Americans from both inshore fisheries and port facilities was beginning to succeed where years of the license system, and patience, had failed. Canada's pressure brought results in Washington. American politicians running for office in the fall used any pretext to fan latent Anglophobia in their districts. Ben Butler of Gloucester, for example, was a master at taunting Canada. In 1868 he visited Charlottetown on a mission of annexation, and used the incident in his campaign songs and propaganda.<sup>60</sup> In 1870 Butler sputtered about the "outrage at Pirate Cove," where, he claimed, mackerel schooners had been forbidden to pass through the Gut of Canso on their way to the fishing grounds of the Gulf and a fleet had been captured by the British. He asked the President "under what pretence of right and under whose orders American Fishing ves-

56 H.J. Holland to Admiralty, 23 August 1870, G 21/130/2(b), PAC.

57 Longley, "Peter Mitchell," p. 399. See also Sir John Young to Lord Granville, Ottawa, 9 June 1870, G 21/130/2(b), PAC.

58 Minute of Council, undated, enclosure in Young to Granville, Ottawa, 9 June 1870, G 21/130/2(b), PAC.

59 The best account of negotiations leading to the Treaty of Washington is Goldwin Smith, *The Treaty of Washington, 1871: A Study in Imperial History* (Ithaca, 1941), chapters I-IV.

60 Butler to Elias H. Derby, draft, 14 July 1868, Benjamin F. Butler Papers, Vol. 43, Library of Congress; "The Essex Cause" and "The Butler Campaign," 1868 campaign songs, *ibid.*, Vol. 44. For Butler's mission, see Francis W.P. Bolger, *Prince Edward Island and Confederation, 1863-1873* (Charlottetown, 1964) and Ronald D. Tallman, "Annexation in the Maritimes? The Butler Mission to Charlottetown," *The Dalhousie Review*, LIII (1973), pp. 97-112.

sels are arrested and detained on their voyages . . . by armed vessels flying the British flag.”<sup>61</sup> The Boston *Herald* and the *Cape Ann Advertiser* both supported strong action against the Canadians. “Malice and revenge are the inspiration of these acts,” trumpeted the Gloucester newspaper, “and nothing but reciprocity of non-intercourse, shutting out the products of the Provinces from our markets, will bring them to their senses.”<sup>62</sup>

The mood in Washington was surly in the fall of 1870, and politicians from New England had reason for their anger. “There is no doubt,” reported the British Minister, Sir Edward Thornton, “that the American fishermen are returning from their labours having had but scanty success and in very bad humour.” Thornton warned the Foreign Secretary that Hamilton Fish felt that New England had been crippled so badly by exclusion from the Canadian fisheries that Canada’s liberty to transport goods under bond from Portland, Maine would probably be withdrawn. He predicted that “there is no doubt of the influence which the American fishermen exercise in the New England States which is even more powerful at a time when Elections for Congress are in progress, as is the case just now.”<sup>63</sup> But Thornton clearly misread the political situation in the United States. Washington was moving toward discussion of the fisheries and other mutual problems. The New England pressure on President Grant, which Thornton feared might lead to war, created quite the opposite effect. The war which Ben Butler and other expansionist Republicans urged was out of the question because of the instability of the Grant administration.<sup>64</sup> President Grant and the British government were being forced by quite different stimuli to a resolution of their diplomatic problems.

Certainly it appeared to Canadians that Peter Mitchell had succeeded. A broad spectrum of Canadians, basking in the nationalistic fervour of successfully challenging American power at sea, dared hope the United States could not defy them. This feeling seemed strongest in the Maritimes. The *Halifax Reporter and Times* thundered that Canada would protect the fisheries, “regardless of any bluster that the American press and that arch-

61 George Bearse to Fritz J. Babson, Pirate Cove, Nova Scotia, 20 June 1870; Benjamin Bearse to Babson, Pirate Cove, 21(?) June 1870; Babson to Butler, Gloucester, 29 June 1870, enclosures in Thornton to Foreign Secretary, Washington, 4 July 1870, FO 414/28, PAC.

62 *Cape Ann Advertiser*, 26 August 1870, cited in Lester B. Shippee, *Canadian-American Relations, 1849-1874* (New Haven, 1939), p. 277; *Boston Herald*, 20 June 1870, cited in J. Paris Mansfield, “New Brunswick and the Treaty of Washington” (unpublished M.A. thesis, University of New Brunswick, 1958), p. 45.

63 Thornton to Granville, 17 October 1870, G 21/130/2(b), PAC.

64 An excellent source for the internal politics of the Grant administration is the Diary of Hamilton Fish, 1869 to 1877, Hamilton Fish Papers, Library of Congress. William B. Sesseltine, *Ulysses S. Grant, Politician* (New York, 1935), should be supplemented with Allan Nevins, *Hamilton Fish: The Inner History of the Grant Administration* (New York, 1936), for this period.

demagogue, Gen. Butler, may indulge in towards us.”<sup>65</sup> Macdonald also rejoiced with the apparent success of the government’s exclusion policy. After the rejuvenated Prime Minister returned to Ottawa from Prince Edward Island late in September, one of his first acts was to praise the conduct of the Marine Police and the success of exclusion.<sup>66</sup>

When Macdonald travelled to Washington in 1871 as a British member of the Joint High Commission, he came also as Prime Minister of Canada, with the need to represent Canadian interests. Although horrified by the fisheries provisions of the treaty, which provided free American use of Canadian ports and inshore waters for twelve years in exchange for free Canadian fish in United States markets, Macdonald underestimated his accomplishment. Canada had achieved limited reciprocity in fish, which pleased most fishermen and merchants in the Maritime Provinces and defused some lingering opposition to Confederation in Nova Scotia.<sup>67</sup> Canada would also receive more than four million dollars by decision of the Halifax Commission in 1877 for American use of the Canadian fisheries. But, even more important for Canadians, in protecting the fisheries between 1867 and 1871, Canada had shown to both London and Washington that the new nation was prepared to resist the pressure of its strong southern neighbour. Peter Mitchell’s own use of pressure, exclusion of Americans from ports and inshore fisheries, had led to the Treaty of Washington. The fisheries were sacrificed to Anglo-American rapprochement, but Canada retained its dignity and its sovereignty was enhanced.

Canada not only survived the dangerous ten years from Confederation to the Halifax Commission in 1877, she survived with her international status strengthened and with her legal claim to the fisheries reaffirmed. By 1877, and the replacement of Ulysses S. Grant and Hamilton Fish by Rutherford B. Hayes and William Evarts in the United States, the most urgent threat to Canada ended. American foreign policy took a new direction, in which commercial empire replaced continental empire. New England Anglophobes, who were always more concerned with re-election than annexation, saw their political power dwindle in Washington. Macdonald’s return to power in 1878, and the National Policy his government articulated in 1879, signified Canada’s clear choice to resist United States domination. That choice had been implicit in Peter Mitchell’s fisheries policy ten years previously.

65 *Reporter and Times*, 29 November 1870, enclosure in J.F. Phelan, Vice Consul, to Fish, 8 December 1870, Halifax Despatches, Vol. 12, PAC.

66 Macdonald to James Hadley, Ottawa, 25 October 1870, Macdonald Papers, Vol. 517, PAC; Creighton, *The Old Chieftain*, pp. 72-73.

67 For the reaction of the Maritimes to the Treaty of Washington, see Ronald D. Tallman, “Warships and Mackerel: The North Atlantic Fisheries in Canadian-American Relations, 1867-1877” (unpublished Ph.D. dissertation, University of Maine at Orono, 1971), chapter XI.